

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

JASON A. CAMBRON, #Y316765,) Civil Action No. 3:12-1919-RMG-JRM
)
Petitioner,)
)
vs.) REPORT AND RECOMMENDATION
)
GREGORY KNOWLIN, Warden of Turbeville)
Correctional Institution,)
)
Respondent.)
)

This is a *pro se* Petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 on July 11, 2012. At the time this action was filed, Petitioner was an inmate at the Turbeville Correctional Institution. Respondent filed a return and motion to dismiss on October 18, 2012, pursuant to Rules 12 (b)(1), 12 (b)(6) and 12 (d), Fed.R.Civ.P. As the Petitioner is proceeding *pro se*, the Court issued an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975) on October 19, 2012, advising Petitioner of the importance of a dispositive motion, and of the need for him to file an adequate response. Petitioner was specifically advised that if he failed to respond adequately, Respondent's motion may be granted, thereby ending his case. However, on October 26, 2012, the copy of the Court's Roseboro order mailed to Petitioner was returned to the Clerk of Court with the enveloped marked "Unknown at This Address, Return to Sender, Released 10-1-12." A review of the record shows that a previous order granting Respondent's motion for an extension of time was also returned to the Court as undeliverable.

The undersigned notes that when Petitioner filed this action, he was specifically instructed as follows:

You are ordered to always keep the Clerk of Court advised in writing...if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this order, you fail to file something you are required to file within a deadline set by a District Judge or a Magistrate Judge, your case may be dismissed for violating this order. Therefore, if you have a change of address before this case has ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address....**Your failure to do so will not be excused by the Court.**

See Order filed July 27, 2012 (emphasis added).

Petitioner has failed to comply with this order, and as a result neither the Court nor Respondent have any means of contacting him concerning his case.

A petition may be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and/or failure to comply with orders of the Court. Ballard v. Carlson, 882 F.2d 93 (4th Cir. 1989), cert. denied 493 U.S. 1084 (1990); Chandler Leasing Corp. v. Lopez, 669 F.2d 919 (4th Cir. 1982). In considering whether to dismiss an action pursuant to Rule 41(b), the Court is required to consider four factors:

- (1) the degree of petitioner's responsibility in failing respond;
- (2) the amount of prejudice to the petitioner;
- (3) the history of the petitioner in proceeding in a dilatory manner; and
- (4) the existence of less drastic sanctions other than dismissal.

Davis v. Williams, 588 F.2d 69 (4th Cir. 1978).

In the present case, Petitioner is proceeding *pro se* so he is entirely responsible for his actions. Based on the foregoing, and the previous instructions and specific warning given to Petitioner in the Court's order of July 27, 2012, it is recommended that this action be **dismissed**,

with prejudice, in accordance with Rule 41(b), Fed.R.Civ.P. The Clerk is directed to send this Report and Recommendation to Petitioner at his last known address.

If Petitioner notifies the Court within the time set forth for filing objections to this Report and Recommendation that he wishes to continue with this case and provides a current address, the Clerk is directed to vacate this Report and Recommendation and return this file to the undersigned for further handling. If, however, no objections are filed, the Clerk shall forward this Report and Recommendation to the District Judge for disposition.



Joseph R. McCrorey
United States Magistrate Judge

Columbia, South Carolina

October 30, 2012

The parties are also referred to the Notice Page attached hereto.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).